

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION

IN RE: )  
 )  
EDGAR MARTINEZ, ) CASE NO. 08-22271 JPK  
 ) Chapter 7  
Debtor. )

ORDER REGARDING MOTION FOR ORDER  
REDUCING DEPOSIT

The motion, which was filed by the debtor on September 4, 2008, appears to request relief pursuant to 11 U.S.C. § 366(b). The reasonable modification of a deposit regarding utility service requires notice and a hearing. The initiation of an action pursuant to § 366(b) also constitutes a contested matter, subject to the provisions of Fed.R.Bankr.P. 9014, which invokes the service of process provisions of Fed.R.Bankr.P. 7004; Fed.R.Bankr.P. 9014(b). Fed.R.Bankr.P. 7004(b)(3) provides a specific manner in which service of the motion must be effected. In this case, service has been made "via fax at (866) 248-7296 and by depositing the same in the United States mail, envelopes properly addressed to NIPSCO at P.O. Box 13007 Merrillville, Indiana 46410". The service of process evidenced by the certificate of service attached to the motion is ineffective under Rule 7004(b)(3). In order for a court to obtain personal jurisdiction over a defendant, valid service of process must be effected; *Mid-Continent Wood Products v. Harris*, 937 F.2d 297 (7<sup>th</sup> Cir. 1991). An order of a court entered in the absence of personal jurisdiction is void; see, *In re Cappuccilli*, 193 B.R. 483 (Bankr. N.D.Ill. 1996).

The court has no personal jurisdiction over NIPSCO with respect to the relief requested by the motion, and any proceedings with respect to the motion would be entirely void.

IT IS ORDERED that the court will take no action with respect to the motion until the record evidences proper service of process upon NIPSCO.

Dated at Hammond, Indiana on September 5, 2008.

/s/ J. Philip Klingeberger  
J. Philip Klingeberger, Judge  
United States Bankruptcy Court

Distribution:  
Debtor, Attorney for Debtor, Trustee, US Trustee